

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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US DISTRICT COURT E.D.N.Y.

★ **MAY 18 2017** ★

BROOKLYN OFFICE

----- X
BERNADETTE CRAWLEY-MACK and KEITH
MACK,

Plaintiffs,

- against -

RITE AID OF NEW YORK INC., doing business
as RITE AID PHARMACY, "JOHN DOE," the
name of Pharmacist being unknown, UNITED
HEALTHCARE OF NEW YORK INC., and
"XYZ CORP," a fictions software corporation
that created the software that is utilized by
pharmacies and pharmacists to fill prescriptions,

Defendants.

MEMORANDUM & ORDER

16 Civ. 4622 (AMD) (RER)

----- X
ANN DONNELLY, District Judge.

On May 18, 2017, I found that the plaintiffs' state law breach of fiduciary duty claim was preempted by ERISA, and therefore, dismissed the claim with prejudice. (ECF 27.) The plaintiffs' remaining claims are under state law.

Federal courts should generally decline to exercise supplemental jurisdiction if, as is the case here, the complaint asserts federal question jurisdiction but not diversity jurisdiction, and the complaint's "federal-law claims have dropped out of the lawsuit in its early stages and only state-law claims remain." *Alphas v. City of N.Y. Bus. Integrity Comm'n*, No. 1:15-CV-03424 (ALC), 2017 WL 1929544, at *4 (S.D.N.Y. May 9, 2017) (citing *Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 350 (1988); see also *Marcus v. At & T Corp.*, 138 F.3d 46, 57 (2d Cir.1998) ("In

general, where the federal claims are dismissed before trial, the state claims should be dismissed as well.”) Accordingly, the plaintiffs’ remaining claims are dismissed without prejudice and may be refiled in state court.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
May 18, 2017